STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company **Petition for approval of tariffs implementing ComEd's proposed peak time rebate program.**	: : : : :	**Docket No. 12-0484**

REPLY BRIEF OF THE STAFF

OF THE ILLINOIS COMMERCE COMMISSION

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Staff of the Illinois Commerce Commission ("Staff"), by and through its counsel, pursuant to Section 200.800 of the Rules of Practice (83 Ill. Adm. Code 200.800) of the Illinois Commerce Commission ("Commission"), respectfully submits its reply brief in the above-captioned matter.

I. INTRODUCTON

Staff's Initial Brief was filed and served on all the parties on December 20, 2012. Commonwealth Edison Company ("ComEd" or "Company"), Comverge, Inc. ("Comverge"), the Illinois Competitive Energy Association ("ICEA"), the City of Chicago ("City") and the Citizens Utility Board ("CUB"), filed initial briefs[1] in this matter. Many of the issues raised in ComEd's, Comverge's, ICEA's and City/CUB's initial briefs were addressed in Staff's Initial Brief. The absence of a response to a specific issue raised in a parties' initial brief in this reply brief does not constitute a change of position from the Staff Initial Brief. Staff's reply brief follows.

[1] CUB and the City of Chicago filed a joint initial brief.

II. ARGUMENT

A. Uncontested Issue

1. Reply to ComEd and CUB/City regarding: Proposed change to miscellaneous General Provision of Rider PTR regarding annual reporting.

Dr. Kennedy recommended a revision to the Miscellaneous General Provisions of Rider PTR with regard to the filing of the annual report. ComEd does not object to Dr. Kennedy's recommendation and supported some additional language that CUB/City proposed to Staff's language. (ComEd IB, p. 43) Staff does not object to CUB/City's modification to the language Staff proposed. (CUB City IB, p. 15) Accordingly, the following revisions should be made to Original Sheet No. x5:

ILL. C. C. No. 10
Original Sheet No. x5

MISCELLANEOUS GENERAL PROVISIONS

The Company must submit a report to the ICC no later than September 1 each year, beginning in 2015, that provides an evaluation of the implementation, operation, and administration of the provisions of this rider during the previous PJM Planning Year. <u>Copies of such report shall also be provided by the Company to the Manager of the Staff's Accounting Department and the Director of the Staff's Policy Division. Such report must be verified by an officer of the Company. Copies of such report shall also be filed in ICC Docket No. 12-0484.</u>

B. Contested Issues

1. Reply to ComEd's recommendation to exclude the customer baseline from the tariff: Methodology for calculating baseline should be included in the tariff.

Staff recommends that the customer baseline ("CBL") used to estimate savings be included in the tariff. (Staff IB, p. 4). The reason is that unlike electricity usage, the savings from the PTR program is determined by estimating how much a customer would have used if there is no event called, and comparing that to how much was used when an event is called. There is no meter available that can determine this savings. Instead, a mathematical formula is derived using the best available information. Further, over time, the best formula may change. As a result, Staff recommends that the baseline methodology be included in the tariff. If a change in the methodology is warranted, the Company can petition for a tariff change which the Commission can approve or reject. ComEd argues that it is unnecessary to include the CBL in the tariff. Among its reasons is that it has not yet determined its CBL. ComEd also argues that by requiring inclusion of a CBL in the tariff, Intervenors in this case are not provided an opportunity to comment on the methodology. In the alternative, ComEd proposes to file its initial CBL for Commission approval by February 1, 2014 (ComEd IB, pp. 31-33). It is Staff's position that ComEd's recommendations are insufficient. As stated in ComEd's Initial Brief, the Company's proposal gives the Commission the opportunity to review its **initial** CBL. (ComEd IB, p. 13). Unfortunately there is no guarantee that the CBL won't change the next year, or the next, and so forth. By including the methodology in the tariff, the Commission is afforded the opportunity to review any changes to the CBL, and not just ComEd's initial CBL proposal. Staff does recognize that no parties have commented on a CBL methodology because, as the Company states, no currently proposed methodology exists. One means to remedy this is for the Commission to order ComEd to file its initial CBL methodology for Commission review by February 1, 2014. The Commission can further order modification of the PTR tariff approved in Docket 12-0484 by including the approved CBL methodology during that review. The key point is that the methodology should be clearly stated in the tariff.

2. Reply to ComEd and CUB/City regarding limiting other PTR events: A limitation should be placed on the number of non-emergency and test events, and the Commission should require ComEd to pay customers any remaining monies on a PTR-savings weighted average basis at the end of the year.

In their respective Initial Briefs, ComEd and CUB/City argued that the Commission should not limit the number of "other PTR events." (ComEd IB, p. 17; CUB/City IB, p. 6). CUB/City's Initial Brief seemed to indicate that Staff's proposal was to limit the total number of events called to no more than three a year for any reason. (CUB/City IB, pp. 8-10). CUB/City mischaracterizes Staff's position. Staff's proposal allows for as many events as PJM calls; however, after three events have been called in a year, no further "other events" (events called to test the system) may be called. (Staff Ex. 1.0, pp. 3, 6-7). The intent of Staff's recommendation is to prevent the Company from requiring its customers to jump through unnecessary hoops to obtain money that customers should be entitled as a result of signing up and agreeing to reduce load at times of PJM system emergencies. Further, Staff does not object to calling practice events. Staff suggested three "other PTR events" because ComEd witness Eber stated that 2-3 events would be necessary to condition customers. (ComEd Ex. 2.0, p. 8). However, Staff does object to calling events to minimize the accrual of funds that rollover to following years. (Staff Ex. 1.0, pp. 7-8). Instead Staff recommends that the tariff be modified such that any funds available after all events are called, be paid to the participants as compensation at the end of the year based on their savings on those events. As to ComEd's arguments that Staff's proposal could increase costs, any such costs are minimal and would be a standard part of the costs of calling events in any case. All that is required to implement Staff's proposal is to know: 1) how much money is left over; 2) the total savings from all participants; and, 3) the individual savings for each participant. All this information should be readily available to ComEd as it needs the items in order to: 1) know if it is minimizing its accrual as the currently proposed tariff requires; 2) evaluate the responses it gets from calling events; 3) to credit customers for savings. Lastly, CUB/City argues that limiting the number of events reduces benefits to customers and may cause confusion because customers will not know how the value of the each kWh saved. (CUB/City IB, pp. 9-10). Staff does not believe either of these arguments is valid. First, the pool of money available to customers is fixed for each program year. Whether one event is called or 100 events are called, the pool of money does not increase. The benefits are defined by this pool. It is unreasonable to equate more events to more savings. The argument that customers may be confused is equally as baffling. The program is designed to reduce load at times of system emergencies. It does this by asking customers to shed load in return for monetary compensation for the inconvenience. ComEd and CUB must think ComEd's customers are easily confused. The message is simple. Every kWh a customer saves during events pays at least $1. There is no limit to the number events. It changes from year to year based on market conditions. After all needed events are called, if money is left over the customer receives additional compensation based on how much he/she saved during those events. If no money is left over, the customer receives **at least** a $1 per kWh credit. (Staff Ex. 1.0, pp. 7-8).

3. Reply to ICEA regarding: Cost recovery of implementation costs.

ICEA takes the position in its initial brief which it took in its testimony that ComEd's proposal to recover its implementation costs from all of its residential customers violates Section 16-108.6(g). (ICEA IB, p. 13) No other party supports

ICEA's interpretation of Section 16-108.6(g) ComEd and CUB/City, the only other parties besides Staff and ICEA that address the issue, take issue with ICEA's reading of Section 16-108.6(g) as well. (ComEd IB, pp. 38-40; CUB/City IB, pp. 12-13) As Staff set forth in its initial brief, ICEA is attempting to equate rebate costs with implementation costs of the PTR, however, Section 16-108.6(g) only addresses the cost of rebates. Rebate costs under Section 16-108.6(g) are to be secured from the regional transmission organization, however the statute does not specifically address the cost recovery for implementation costs i.e., start up, administrative costs and evaluation costs. Since Section 16-108.6(g) does not require implementation costs to be recovered through the PTR tariff, Staff at this time does not object to ComEd recovering these costs from retail customers through its delivery services tariff. However, Staff is only recommending this cost allocation for the initial evaluation period and is recommending that the Commission reconsider the issue in the proceeding initiated to evaluate the PTR program. (Staff IB, p. 8) ComEd similarly proposes the issue be revisited during the evaluation of ComEd's PTR performance as required by the statute. (ComEd IB, p. 35)

4. Reply to Comverge regarding the cost of DCL devices: ComEd should not be required to make enabling direct load control technology available to PTR participants on an opt-in basis and have the costs socialized to all customers.

Comverge proposes that ComEd make Direct Load Control ("DLC") devices available to its customers. Among the reasons is that Comverge is of the opinion that DLC is cost beneficial. Staff recommended that ComEd allow customers who wish to use DLC to be allowed to do so, but at the customer's own cost. That is, Staff is opposed to the costs associated with DLC to be socialized among nonparticipants. (Staff IB, p. 10; Staff Ex. 4.0, pp. 6,8). Dr. Kennedy testified that nonparticipants may be worse off if they are forced to share the costs of DLC technology. (Staff Ex. 4.0, p. 6).

In its Initial Brief, Comverge seeks to trivialize Staff witness Dr. Kennedy's opinion. It points out that Dr. Kennedy did not attempt to quantify benefits to nonparticipants. (Comverge Corrected IB, p. 11). Comverge then cites a study showing $76 million dollars of net present values from ComEd's real time pricing program over a four-year period (Comverge Corrected IB, pp. 11-12). However, Dr. Kennedy did in fact point out that the methodology used within that study was flawed, because it did not consider supplier's long-run response to changes in customer demand. Therefore, the result would be that growth of supply would decrease which would result in an increase in wholesale energy and capacity prices (Tr. December 7, 2012, p. 154). Although Dr. Kennedy did not quantify the benefits and cost of DLC to nonparticipants, the record provides evidence to support Dr. Kennedy's statement.

Comverge witness Lacey testified that the likely cost of DLC is around $150 per device (Tr. December 7, 2012, p. 64). However, there are additional costs to administer a DLC program. Dr. Kennedy testified on rebuttal that energy savings to a participant are likely to be about $20 per year[2] (Staff Ex 4.0, pp. 2-3). Thus, for it to be worthwhile for nonparticipants to pay the cost of DLC, nonparticipant benefits would

[2] The $20 savings assumed a 1 kW savings for 3 six-hour events. That would be $18 per year. The actual savings from DLC would be less than that as customers can reduce load without enabling technologies. For cost benefit purposes, ComEd assumed DLC led to a doubling of savings. In that case, savings from DLC would be closer to $10 per year for participants. Nonparticipant benefits would have to cover any costs greater than that for it to be worthwhile to nonparticipants.

have to be worth enough to cover the DLC equipment and administrative costs. At $10 per year in incremental benefits to participants, there is a very real likelihood that nonparticipant benefits would be insufficient to cover the gap. As stated before, if Comverge or any other party believes RTP with direct load control devices are as great as claimed, there is nothing preventing such organizations from reaping the profits from their own costs and risks (Staff Ex. 4.0, p. 6).

5. Customer specific billing information.

As Staff discussed in its initial brief, ComEd in its petition and in the direct testimony of Company witness Robert Garcia raised the issue of whether ComEd can disclose to a customer's RES whether the customer has elected to participate in ComEd's PTR program. (ComEd Petition, par. 12; ComEd Ex. 1.0, p. 20). More specifically, Company witness Garcia stated that: "ComEd is unclear as to whether a customer electing service under Rider PTR constitutes customer-specific billing information that ComEd is prohibited from providing under Section 16-122 except with the express authorization of the customer." (ComEd Ex. 1.0, p. 20). ComEd in its initial brief does not take a position on this important issue. (ComEd IB, p. 43) ComEd provides no guidance to the Commission on this issue. ComEd's initial brief merely states that it "seeks clarification as to whether the decision of individual customers to participate in ComEd's PTR program constitutes customer-specific billing, usage, or load shape data under Section 16-122 that it may not post on its PowerPath® website absent express customer authorization." (Id.) The other parties to this proceeding also did not address the issue in their initial briefs. Given the failure of ComEd to take a position on the issue in its initial brief, there is nothing new for Staff to address in this reply brief and Staff's position remains the same. Staff continues to recommend the Commission, for consistency purposes, find that whether a customer has elected to participate in ComEd's PTR program is not customer information entitled to protection under Section 16-122 of the PUA. (Staff IB, pp. 17-19)

III. CONCLUSION

Staff respectfully requests that the Illinois Commerce Commission approve Staff's recommendations in this docket.

Respectfully submitted,

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